IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

THOMAS BALLARD,	)
	)
	)
Plaintiff,	)
	)
vs.	)
	)
	)
DELTA AIR LINES, INC.,	)
	)
Defendant.	)

COMPLAINT AND JURY DEMAND

NOW COMES the Plaintiff, THOMAS BALLARD, by and through his undersigned attorney, Josh M. Friedman, and complains against the Defendant, DELTA AIR LINES, INC., as follows:

INTRODUCTION

1. This is an action against Defendant for race discrimination under Title VII of the Civil Rights of 1964, 42 U.S.C. § 2000e *et seq.*, arising out of Plaintiff's employment with and discharge by Defendant. This action also alleges a violation of the Illinois Whistleblower Act, 735 ILCS 174/1 *et seq.*

PARTIES

2. Plaintiff is an individual who resides in this judicial district. Plaintiff is a citizen of the United States of America, and is entitled to all the rights, privileges and immunities guaranteed to all citizens of the United States under the Constitution and Laws of the United States.

3. Defendant is a Delaware corporation and has significant business operations in this judicial district. At all times relevant hereto, Defendant employed in excess of 500 employees and qualifies as an employer for purposes of Title VII.

JURISDICTION AND VENUE

4. This matter arises under federal law, and this Court therefore has jurisdiction over this matter pursuant to 28 U.S.C. § 1331. This Court also has supplemental jurisdiction over Plaintiff's state law claim pursuant to 28 U.S.C. § 1367.

5. Venue is proper pursuant to 28 U.S.C. § 1391 as this is the judicial district where all the parties reside.

6. Plaintiff filed a timely charge of discrimination with the Equal Employment Opportunity Commission ("EEOC") claiming that he had been discriminated against based on his association with an individual of the Asian race.

7. The EEOC mailed a Notice of Right to Sue to Plaintiff on November 5, 2014. Plaintiff filed this action within 90 days of his receipt of that Notice. A copy of that Notice is attached hereto and incorporated herein by reference as Exhibit A.

8. Plaintiff has exhausted his administrative remedies and has standing to file this action against Defendant.

FACTS COMMON TO ALL COUNTS

9. Plaintiff began his employment with Defendant in or around December 1993 as an Airline Maintenance Technician.

10. At all times relevant hereto, Plaintiff performed his work satisfactorily.

11. At all times relevant hereto, Plaintiff was married to a woman of the Asian race. At all times relevant hereto, Plaintiff's direct supervisor, Brandon Heath, was aware that Plaintiff's wife was Asian.

12. During Plaintiff's employment, Mr. Heath made ethnic slurs and sexual comments about his wife, including but not limited to referring to her as a "little brown fucking machine," a "brown ass whore," and "slant eye."

13. On several occasions throughout his employment, when Plaintiff travelled to Asia on company business, Mr. Heath was extremely critical of Plaintiff, and made ethnic slurs similar to that described above.

14. On or about March 12, 2014, Mr. Heath instructed Mr. Ballard to sign off to approve the use of an oven on a Delta jetliner that had previously caught fire. Mr. Heath advised Mr. Ballard that the oven simply had some charred food in it and that it was safe to operate in flight.

15. Mr. Ballard inspected the oven, and after extensive testing, determined that the oven posed a serious fire hazard, that it needed to be replaced, and, contrary to Mr. Heath's instructions, he would not sign off on the oven as being safe to operate in flight.

16. Mr. Ballard reasonably believed that it would have been a violation of federal aviation regulations for him to sign off on an unsafe piece of equipment that presented a fire hazard.

17. On March 31, 2014, a little more than two weeks after Mr. Ballard refused to comply with Mr. Heath's instructions to sign off on the oven, he was discharged by Mr. Heath.

COUNT I
RACIAL ASSOCIATION DISCRIMINATION UNDER TITLE VII

18. Plaintiff realleges paragraphs 1-17 above as if fully repleaded herein.

19. At all times relevant hereto, Plaintiff's wife was of the Asian race, which is a protected class under Title VII, and Defendant was aware that Plaintiff's wife was Asian.

20. At all times relevant hereto, Plaintiff's performance met Defendant's legitimate expectations.

21. Mr. Ballard's supervisor, Mr. Heath, made ethnic slurs about Plaintiff's wife, and had a negative animus toward Plaintiff because of his association with a member of the Asian race.

22. Similarly situated employees without Asian wives were treated more favorably than Plaintiff.

23. Defendant violated Title VII of the Civil Rights Act of 1964 by discharging Plaintiff because of his association with an individual of the Asian race.

24. In terminating Plaintiff, Defendant acted with fraud, actual malice, and such gross negligence as to indicate a wanton disregard of Plaintiff's rights.

25. As a direct and proximate result of the unlawful and discriminatory practices alleged above, Plaintiff has suffered lost compensation and other monetary benefits, lost future employment opportunities, severe emotional and psychological distress, and other forms of damage to be proven at trial.

COUNT II
VIOLATION OF THE ILLINOIS WHISTLEBLOWER ACT

26. Plaintiff realleges paragraphs 1-17 above as if fully repleaded herein.

27. By refusing to comply with Mr. Heath's instructions to sign off on the aforementioned oven as being safe for flight, Mr. Ballard refused to engage in what he believed to be illegal conduct—a violation of federal aviation regulaltions.

28. Delta retaliated against Ballard by discharging him for his refusal to engage in what he reasonably believed to be illegal conduct.

29. Delta's action in discharging Plaintiff for refusing to engage in what he believed to be illegal conduct constituted a violation of the Illinois Whistleblower Act, 735 ILCS 174/1 et seq.

30. In terminating Plaintiff, Defendant acted with fraud, actual malice, and such gross negligence as to indicate a wanton disregard of Plaintiff's rights.

31. As a direct and proximate result of the unlawful practices alleged above, Plaintiff has suffered lost compensation and other monetary benefits, lost future employment opportunities, severe emotional and psychological distress, and other forms of damage to be proven at trial.

WHEREFORE, Plaintiff prays for the following relief:

(a) Trial by jury on the charges raised in his Complaint, and those investigated with the EEOC and advancement on the Court's docket for a speedy hearing;

(b) That a declaratory judgment be issued that Plaintiff's rights have been violated as alleged above and that the practices complained of herein are unlawful and in violation of the acts cited;

(c) This the Court permanently enjoin Defendant, its agents, successors, officers, employees and attorneys and those acting in concert with them from engaging in each of the unlawful practices, policies, customs, and usages set forth herein, and from continuing any and all other practices shown to be in violation of applicable law;

(d) That Plaintiff have and recover from the Defendant reinstatement or front pay, back wages and lost benefits with interest, pre and post judgment interest, compensatory, consequential and punitive damages for emotional pain, suffering, inconvenience, mental anguish and other non-pecuniary losses for Defendant's conduct and for any other damages to which Plaintiff may be entitled under federal law;

(e) That Plaintiff be awarded his costs and disbursements of this action, including reasonable attorney's fees, pursuant to the Civil Rights Attorneys Fee Award Act of 1976, 42 U.S.C. § 1988, the Illinois Whistleblower Act, 735 ILCS 174/1 et seq., and all other federal and Illinois attorney fee statutes; and

(f) Grant such other relief as the Court deems just and proper.

PLAINTIFF DEMANDS A TRIAL BY JURY.

Respectfully Submitted,

Thomas Ballard

By /s/Josh Friedman
His attorney

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